EXHIBIT 2

Transcript of Deposition of Robert Walter dated July 11, 2014

IN RE: CITY OF DETROIT

ROBERT C. WALTER

July 11, 2014

Prepared for you by



Bingham Farms/Southfield • Grand Rapids Ann Arbor • Detroit • Flint • Jackson • Lansing • Mt. Clemens • Saginaw

ROBERT C. WALTER July 11, 2014

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Page
                  UNITED STATES BANKRUPTCY COURT
                   EASTERN DISTRICT OF MICHIGAN
                         SOUTHERN DIVISION
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                                    Case No. 13-53845
     CITY OF DETROIT, MICHIGAN )
 8
                                   Chapter 9
                Debtor
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10
                                    Hon. Steven W. Rhodes
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13
          The Deposition of ROBERT C. WALTER,
14
          Taken at 150 W. Jefferson, Suite 2500,
15
         Detroit, Michigan,
16
         Commencing at 10:27 a.m.,
17
         Friday, July 11, 2014,
18
         Before Melinda S. Moore, CSR-2258.
19
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ROBERT C. WALTER July 11, 2014

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5	New York, New York 10020	5	EXAMINATION BY MS. BADALAMENTI	6
6	212.768.6881	6		
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9	Appearing on behalf of the	9		
10	Official Committee of Retirees	10	DEPOSITION EXHIBIT 1	23
11	of the City of Detroit.	11	DEPOSITION EXHIBIT 2	25
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Page 6 Detroit, Michigan Friday, July 11, 2014 10:27 a.m. 4 (Mr. Sierzenga not present at 5 10:27 a.m.) 6 ROBERT C. WALTER, was thereupon called as a witness herein, and after having first been duly sworn to testify to 8 9 the truth, the whole truth and nothing but the truth, was examined and testified as follows: 10 11 EXAMINATION 12 BY MS. BADALAMENTI: 13 Q. Sir, can you tell us your name for the record. 14 Robert Charles Walter. 15 O. And, Mr. Walter, you're an attorney? 16 A. Yes. 17 Q. So you understand the deposition process? 18 A. T do. 19 I have a tendency of getting a little ahead of 20 myself. If I cut you off before you're finished 21 answering a question, let me know that I'll back up. And the same thing, even if you can 23 anticipate my question, make sure you wait and 24 let me finish it --25 A. Okay.

ROBERT C. WALTER July 11, 2014

Page -- so the court reporter can get down what we're saving. 3 Are you currently employed? 4 No. I'm retired. Α. 5 When did you retire? Ο. March of 2012. Where did you retire from? Ο. City of Detroit Law Department. 8 9 What was your position? 10 Senior assistant corporation counsel. Α. 11 Who was above you in the Law Department? 12 At that time, my supervisor was Judith Turner and then the director and -- was Krystal Crittendon, 13 14 and the deputy director was Edward Keelean. 15 Q. The highest ranking person in that department was 16 Ed Keelean? 17 A. No, he was the deputy director. Krystal 18 Crittendon was the director. 19 What would your day-to-day duties have been as an 20 assistant -- senior assistant corporation 21 counsel? 22 A. I was assigned to represent the Detroit Water and 23 Sewerage Department, and basically general counsel 24 work for whatever they wanted me to do. I didn't do litigation. I wrote and reviewed contracts,





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Α.

I don't.

people to testify?

Page 8

negotiated contracts, advised the department on any legal issues that they wanted advice on.

3 Ο. Advise the DWSD?

Yes, that was -- I did some work for the Public 4

Lighting Department, but mostly DWSD. 5

6 When did you take the position of senior

assistant corporation counsel?

I got promoted in the mid-90s -- '95 or '96. 8 А

9 And were you always in that position assigned to 10

the DWSD?

11 I was assigned to DWSD from the time I started at

12 the Law Department in 1982 until I retired.

13 With respect to any criminal investigations or

14 outside agencies investigating the DWSD, would

15 that have been something that you would become

16 involved with?

17 No. I was not involved in that.

What -- who would have been involved? 18

19 Someone higher than me. There were two federal

20 investigations of the department while I worked

21 there, when I just started there, in 1982, when

22 the director of the department, Charles Beckham

was indicted and subsequently convicted. And that

24 was handled by my supervisor, Darryl Alexander, 25 and they add lawyer from Dykema -- a criminal

3 IENENSTOCK



I was not involved in that at all.

I think it was the documents.

documents or subpoenas for individuals?

lawyer from Dykema Gossett named Howard O'Leary

administration was an headed by Edward Keelean,

And when did that investigation begin, to the

I don't remember a date. I became aware of it

named Dennis Mazurek showed me a grand jury

subpoena for Water and Sewerage Department

that responded to that subpoena.

Do you know what time frame that was?

documents and asked me who at the Water Board

Did that grand jury subpoena request files or

The ones that I saw -- and there were several of

them -- were all for documents. They did subpoena

individuals to testify before the grand jury, but

Do you know what came first, the subpoenas for

Building they would contact to find all the files

when I was -- when Mr. Keelean and another lawyer

the deputy director of the department.

And then the one in the Kilpatrick

who worked on that.

best of your knowledge?

Page 9

Page 11

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8

23

Page 10

And so you were asked to compile the documents?

No, I was not. Mr, Mazurek and Mr. Keelean 2

compiled the documents. They just -- because I 3

4 was familiar with all of the water board's

5 contracting processes, they always asked me who

6 was the project manager for this contract that

they were having to find documents on and I would

tell them which building to go to and which people

9 to contact to find the files, but I did not look

10 at the files or compile them myself.

11 Would you recognize those subpoenas if you saw

13 Α. I don't know. I might.

Have you reviewed any grand jury subpoenas before 14

15 or in preparation for your deposition today?

16 Α. No, I have not.

17 Did you keep a separate file that --

18 I did not. Ed or Mr. Mazurek would show me the

19 subpoena and I would tell them where to find --

20 look for the files responsive to the subpoena, and

21 that was it. I didn't keep copies of the

22 subpoenas myself.

23 O. Was Mr. Mazurek an attorney?

24 Α.

25 What was his position? ROBERT C. WALTER July 11, 2014

Chief assistant corporation counsel.

2 Did you work with him on other things or just

3 this one?

4 Α. I worked with Dennis on a number of issues. He

5 was the head of what's called the municipal

6 section, which handled -- they responded to subpoenas in actions where the city was not a

party. They advised the city council on ordinance 8

9 drafting, and they handled all the Freedom of

10 Information Act requests, so anytime the Water and

11 Sewerage Department got FOIAs, and things like

12 that, I would deal with him.

How about Ed Keelean? How often did you interact 13

14

15 Α. Not all that often. Primarily I dealt with my

16 supervisors. In the chain of command above me

17 there was my supervisor, Judith Turner, and then

18 she reported to Dennis Mazurek, who reported to Ed

19 Keelean and Krystal Crittendon.

20 When you were shown the grand jury subpoenas, do 0.

you know what year that was?

22 A. I don't.

21

23 0. When you were shown the grand jury subpoenas, was

24 that the first time that Mr. Keelean had asked

25 you to get something or direct him in the right



Q.

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10 Α.

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When was that?

advice to him?

In 2010?

I don't remember the date. It was several months

It might have been. Either late 2009 or early

I don't know if this is privileged or not, but --

privileged, then establish the parameters, and

then we can figure out whether it's privileged or

the conversation, how did the conversation come

up, and did you feel that you were offering law

department that I worked with, of kickbacks being

paid by contractors or extorted from contractors,

and there was also in a housing department

MR. FAISON: If you think it might be

THE WITNESS: He told me general --

MR. FAISON: Not what -- in terms of

THE WITNESS: Well, no, I wasn't

So going back to the conversation with Mr. Keelean, did he tell you what was being

before the indictment came out.

Page 12

		raye .
1		way since you became or since he became the
2		director?
3	A.	I think so, yes. I mean, basically I would deal
4		with him if was writing a legal opinion for the
5		Law Department that either he or the corporation
6		counsel had to sign off on, but it was just
7		projects like that. An average week, I had no
8		contact with him.
9	Q.	Did you in order to answer his questions, did
10		you have to ask him about the investigation and
11		the nature the nature of the investigation?
12	A.	Yes. And although I don't know how much the
13		federal investigators were telling him, he was the
14		liaison between the federal investigators and the
15		city. And I don't know what they told him.
16	Q.	What did he tell you?
17	A.	That he was receiving subpoenas, that he was
18		compiling documents, and that he also sat in on
19		some of the interviews where the federal
20		investigators were interviewing city employees.
21		This was before some of them got called before the
22		grand jury.
23	Q.	Had you sat in on any interviews?
24	A.	No, but I was interviewed by the assistant U.S.
25		attorney who was on the investigation.



offering any legal advice. There were investigations as far as it involved the

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contract that I got stuck working on an allegation

Page 14

3 BY MS. BADALAMENTI:

4 You said kickbacks that were paid by or extorted from contractors. Do you know which one was

SIENENSTOCK

6 being investigated?

of bid rigging.

A. No.

5

8 O. Did Mr. Keelean tell you it was one or the other 9 or did you gather that information on your own?

10 A lot of that came from just reading the

11 newspapers and watching the television news. The

12 news media were -- I probably got more information

13 about the investigation from reading the

14 newspapers than I did from talking to Ed Keelean.

15 O. Would that have been at the time that you were

16 answering these subpoenas you saw this

17 information going on in the news?

18 A. The investigation was all over the newspapers and

19 the TV stations.

20 What was the housing project? 0.

21 A. That was a fed -- the federal government, the

22 Department of Housing and Urban Development, was

23 putting up the money to rebuild an old public

24 housing project on the west side of Detroit. The

25 old one had demolished -- been demolished, and



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1		they were going to build a new one, and I got
2		involved as special assignment away from my
3		regular work, to get involved in negotiating that
4		contract between the city and the federal
5		government.
6	Q.	Was it within your the course and scope of
7		your employment to negotiate contracts that
8		involved the DWSD?
9	A.	Yes.
10	Q.	Did you actually write those contracts?
11	A.	The department had some standard contract forms
12		for construction contracts, consultant contracts,
13		water service contracts and sewer service
14		contracts with suburbs, and I was involved in
15		developing all of those basic format contracts.
16		And then we'd start with that and for the
17		construction contracts and consultant contract,
18		they didn't change very much. In fact, we just
19		the water service contracts, there were a few
20		provisions we would tweak or touch, but mostly it
21		was boilerplate. But I was involved in writing
22		them, yes.
23	Q.	The presubpoena, during the interview process by
24		the United States Attorney's Office, what did you
25		understand the nature of the investigation to be?
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the bidding process?

Well, there were two types of contracts,

construction contract -- well, more than two, but I'll start with -- construction contracts would

start with a design. You would give the design, a

They would submit sealed competitive bids, and the

professional services contracts, which were either

Then you would have what were called

And then you had for some big projects

whole sheaf of engineering drawings and the

boilerplate contract documents to the bidders.

lower bidder was supposed to get the contract.

contracts for services by engineering firms in

which there was a bid evaluation process where

price was a factor but there were other factors

like professional competence, experience in doing

the type of work to be covered by that contract.

evaluating -- where you would give them project

construction and design budget, and that was

evaluated. It wasn't a pure competitive bid

look at the design and the competence of the

scope and they would process a basic design and a

situation. You would look at the price but also

contractors who were on the bid team. Those were

design-build contracts where you would be

Page 16

It dealt with misconduct involving city contracts. 0. DWSD contracts or other city contracts?

3 А

5

4 Did you learn during the course of those

interviews that you attended or your own

6 interview what contracts were being investigated?

I didn't -- the only interviews that I attended

8 was my own, and they were not asking me about

9 specific contracts. They were asking me what the

city's normal contracting procedures were, how did 10

11 contracts get awarded, how did the bid process

12 start, how did the bid evaluation process work. 13 And it was more general background information.

14 They did not ask me about any specific contracts

15 or contractors.

16 O. Did they ask you about the sinkhole project?

17

18 Ο. Did they ask you about Inland Waters?

19 Α.

20 Ο. Did they ask you about Tony Soave?

A. 21

22 Q. Any representatives, employees, agents of Inland

23 Waters?

24 Α.

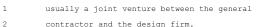
25 0. What was the typical DWSD contracting process,



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Page 18



3 Ο. What was the -- which of these examples would the

sinkhole project be characterized as?

5 Α. The sinkhole project was kind of unique. That was

6 an emergency. So what they did was they took an

existing sewer repair contract with Inland Waters,

8 who was already working on sewer repair and had

9 their equipment and team mobilized and were

10 available. They moved them all out to the

11 sinkhole and had them stabilize the situation and

build an emergency bypass around the sinkhole to

13 keep the sewage flowing and keep it from backing

14 up in all the sewers upstream.

15 0. That contract was -- that was already in place

16 was CS-1368?

17

18 How was CS-1368 awarded? Was it through --Ο.

19 That was a professional -- CS stands for

20 consultant services.

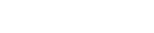
21 MR. FAISON: You're going to have to

22 let her finish her question.

23 THE WITNESS: I'm sorrv.

24 BY MS. BADALAMENTI:

Which of the three types of contracts that you



BIENENSTOCK

ROBERT C. WALTER July 11, 2014

Page 19

Page 17

just referred to would CS-1368 fall within?

3 It was a professional services contract but they

That was a professional service -- actually, wait.

4 were managing sewer repairs.

5 Ο. Who was the -- so that would have been subject to

6 a bid evaluation process?

Yeah. That contract would have been an

8 evaluation, not a pure competitive bid.

9 So a pure competitive bid the low bidder gets it,

10 period?

11

12 In a professional services contract, bidders are

13 evaluated on a rating system?

14 There's a rating system. When the contracts go

15 out for bids, the contractors are told what the

16 basic criteria are. They are not told how those

17 are weighted. And they are not told -- I don't

18 think -- they were not told the identity of the

19 committee that was going to evaluate the bid.

And is it your understanding that Inland Waters

21 was evaluated before it was awarded CS-1368?

22 A. Yes.

0.

20

23 0. Who did that evaluation?

24 I don't know who the members of the committee

were. For every bid evaluation the director of



Page 20 the department would appoint a committee to do the evaluation. I don't know who was on the committee for that contract. I did not serve on the bid 3 4 evaluation committees. Do vou remember a contract CS-1372? 5 Ο. 6 Α. Do you remember that the sinkhole or sewer lining -- sorry -- the sewer lining work that was 8 9 to be performed under CS-1368 was originally the 10 subject of a different contract with Lakeshore 11 who had been awarded through the bid process? 12 No, I was not aware of that. 13 (Mr. Sierzenga present at 14 10:45 a.m.) 15 BY MS. BADALAMENTI: 16 Q. Okay. But your understanding is CS-1368 was 17 competitively bid? 18 A. Yes. 19 As a professional services contract? Q. 20 Α. 21 Q. And you have no knowledge of the contract that 22 was initially awarded to Lakeshore and then



ROBERT C. WALTER July 11, 2014

23

24 Α. No.

25 0. cancelled?

And moved over to 1368?

Page 22 contractor, was the process completed again? Was the evaluation process completed again? 3 A. Well, when 1368 was awarded, there would have been 4 an evaluation. If work was added to or taken out 5 of the scope of the contract, that would have been done by a contract amendment after the contract was awarded 8 Ο. Okav. 9 I mean, there's a scope of work in the contract 10 when it goes out for bids, but that can be changed 11 by amendments that either add work or take work 12 O. So if 1372 was cancelled and that was moved over 13 to a different contractor, it would be your 14 15 belief that would be due to a different scope of 16 work than on 1368? 17 A. I don't understand the question. 18 O. The contract CS-1368 was awarded to Inland 19 Waters, correct? 20 Α. 21 Q. And your belief is that it was awarded pursuant 22 to a bidding process? 23 A. Yes. 24 A professional services evaluation process, 25 right?



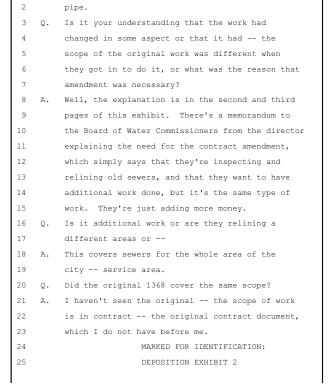
I may have heard about it at the time, but I don't 2 remember anything about it. 3 If you had heard about it, who would that have 4 been from? 5 Α. Probably Darryl Latimer. He was running the contracts and grants group in those days. Had there ever been something like that happen where a contract -- professional services 8 9 contract had been awarded and it was cancelled 10 and a different contractor was given the award? 11 A. Contracts were awarded and terminated on a regular 12 basis usually, so it would not raise any red flags 13 to me if work got shifted from one to the other. Do you know who would direct such a process to 14 15 occur? 16 That would come from the director. Α. 17 O. The director of? 18 The Water and Sewerage Department. Α. 19 And at this time who would that have been? 20 Victor Mercado. Α. 21 Q. Do you remember having any conversations with 22 Victor Mercado about 1372 being cancelled? 23 A. 24 Q. Was it your understanding that when 1372 was 25 cancelled and it was moved over to some different



ROBERT C. WALTER

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		2
1	Α.	Yes.
2	Q.	My question is whether what information you
3		have regarding that award process.
4	A.	I really don't remember anything about the award
5		of that specific contract, because generally I was
6		not involved in evaluation of bids. Once the
7		contract was signed, I would review it before it
8		went to the Board of Water Commissioners for
9		approval.
10		MARKED FOR IDENTIFICATION:
11		DEPOSITION EXHIBIT 1
12		10:50 a.m.
13	BY	MS. BADALAMENTI:
14	Q.	Do you recognize the document that I have just
15		handed you?
16	A.	This is Amendment No. 1 to Contract 1368.
17	Q.	Do you recognize the exhibit that's been
18		document that's been marked Exhibit 1?
19	A.	I do.
20	Q.	Were you involved in the award of this Amendment
21		1 to CS-1368?
22	Α.	No.
23	Q.	Were you involved in the preparation of this
24		Amendment 1?
25	A.	The preparation was done by the contracts and

		1490 1
1		grants group. I would review it after the
2		negotiation was finalized, but typically the
3		negotiation of an amendment was done by the
4		contracts and grants group and engineers who were
5		the project managers for the contract. I
6		generally was not involved in that.
7	Q.	What was the scope of the work that was covered
8		by this Amendment 1?
9	A.	The scope of the work is actually there is no
10		scope of work in this amendment, which means that
11		the scope of work that was in the initial contract
12		would remain in place. And it looks like this one
13		was simply adding additional funding to cover more
14		of the same types of work.
15	Q.	Who would be who would initiate an amendment
16		like this where they're approving more money for
17		the same work?
18	A.	That would typically be the engineering department
19		that was administering the contract. If they
20		found that there was more work that needed to be
21		done, then they would ask for a budget increase
22		and a contract amendment putting more money. And
23		sometimes they would add work to the scope of a
24		contract. And this one this amendment doesn't
25		do that. It's just sewer inspection and relining,



and there are unit prices for various sizes of



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Page 26 10:55 a.m. BY MS. BADALAMENTI: 3 Q. I marked as Exhibit 2 a document that is titled 4 Contract CS-1368. Do you recognize that 5 document? A. Yes, I do. Q. Is that the original contract? A. This is the original contract that Exhibit 1 8 9 O. With that now in front of you, are you able to 10 11 tell me whether or not the area or type or 12 anything about the scope of work changed? A. The scope of work was not changed by the 13 14 amendment. The scope of work involves inspecting 15 sewers owned by the Detroit Water and Sewerage 16 Department, evaluating their condition, and 17 repairing and relining the ones that needed 18 19 So did the job change to necessitate Amendment 1 20 or did something else occur to necessitate 21 Amendment 1? A. As I read these two documents, what happened was 23 they spent the full budget on the original 24 contract and decided they needed to have more of 25 that work done and more sewers inspected, so they



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ı		Page
1		added additional money to the budget for more
2		sewer inspection and relining.
3	Q.	Would there have been any review to determine why
4		the full budget was spent but the project not
5		complete in that sort of circumstance?
6	A.	Well, the City of Detroit has over a thousand
7		miles of sewers, and so there is a constant need
8		to inspect and repair, because many of them are
9		over 50 years old and some of them are
10		deteriorating. So you can't ever say the sewer
11		system is fixed and it's set. It's always
12		changing.
13	Q.	So it's your understanding that simply that more
14		work needed to be done?
15	A.	For Amendment 1, yes.
16	Q.	What was the date of the original contract?
17	Α.	The original contract was approved by the Detroit
18		City Council on June 26, 2002.
19	Q.	And would you agree with me that it contemplated
20		three years' worth of sewer lining work?
21	A.	Yes, actually 4.03 of the contract says the
22		contract duration is three years.
23	Q.	So it wasn't that we were going outside of that
24		original three-year term and the sewers still
25		needed to be inspected and repaired and lined;



BY MS BADALAMENTI.

contract."

your understanding?

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Page 28
          we're within that time frame, right, when we
 2
          enter into Amendment 1?
 3
    А
         Amendment 1 was approved by the city council on
 4
          February 2nd, 2005, so --
 5
         Amendment 1 is -- there's a motion to the Board
    Ο.
 6
          of Water Commissioners as of August 25th of 2004,
          correct?
 8
    A
         Right
 9
         So the board might not approve it until 2005, but
10
          they've used up their budget from the original --
11
    A.
         At some point.
12
         Hold on. Let me finish. They've used up their
13
          budget from 2002 to August 25th of 2004? That's
14
          when they request additional funding?
15
         They requested an additional $10 million to do
    Α.
16
          more work and they did not -- this Amendment No. 1
17
          did not extend the time of performance.
18
         So within the same three-year time frame we're
    Ο.
19
          upping the budget $10 million?
20
         Yeah.
    Α.
21
                     MR. FAISON: I object to the suggestion
22
          that all money had been used up on the contract at
23
          the time the motion was filed. There is no
24
          evidence to support that suggestion.
25
                     MS. BADALAMENTI: I appreciate the
```

SIENENSTOCK



during the three-year term?

testimony, counsel, but I think Mr. Walter

testified that as of the motion, but I'll ask him.

As of the date of the motion, it looks to me like

that additional funding is necessary, but what is

Victor Mercado is representing in page 2 and 3

He's saying -- it's on the second page of the

the department with the means necessary to

until a new contract is in place, it is

motion -- and I'll quote: "In order to provide

continue the rehabilitation work described above,

and respond to potential sewer repair emergencies

recommended that the budget for Contract CS-1368

In the first line of page 3 it says "The current

rehabilitation," which is about \$1,600,000 per

\$1.6 million per month was what was originally

contemplated by CS-1368 or that that amount was

more, such that the funding was going to run out

be increased by \$10,000,000 to close out the

balance of approximately \$12,200,000.00 is

insufficient to cover the monthly cost of

month. Is it your understanding that that

Page 29

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Page 30 I think the original anticipation was that the 2 budget was going to be -- in the original 3 contract, was going to be sufficient for the 4 three-year term, but obviously they found 5 additional work. You don't know what state the 6 sewers are in until you actually get in there and take a look at them. And obviously they found 8 more deterioration in the sewers and they wanted 9 to have more work done. 10 So in the professional services context you told Ο. 11 me that there is a design process that goes into the proposal submitted by the professional. So 13 is it your testimony now that they might not have 14 known what the design or nature or how much sewer 15 they were going to be covering --16 Α. Well --17 MR. FAISON: Hold on. Let her --18 MS. BADALAMENTI: That's okay. 19 MR. FAISON: Let her finish her 20 question. That way I can figure out whether the 21 question is objectionable or not before you 22 answer. 23 THE WITNESS: Okay. This was not 24 really a design contract. This was more an 25 as-needed inspection and rehabilitation work for



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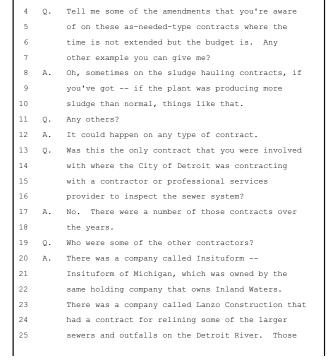
Page 31 relining old sewers that were deteriorated. You just look at the condition of the sewer, and if it's cracking or pitting, you reline it. 4 BY MS. BADALAMENTI: 5 O. So this CS-1368 wasn't really any of those three types of contracts. That's what you're telling me now. It wasn't construction contracts; it 8 wasn't a professional services contract; it 9 wasn't a design-build contract. It was something 10 different. Now we have a fourth category of 11 12 Well, this -- this would be more of -- the scope 13 of work here is inspecting sewers and relining the ones that need to be relined. So the inspection 14 15 work and evaluation is professional services, and 16 the relining work is basically construction work; 17 so they were doing both in this contract. 18 So is it your testimony that this is a fourth 19 type of contract? It's not one of those three? 20 Yeah, there -- yeah. Α. 21 0. What other contracts were as-needed contracts? 22 Oh, the sludge hauling contracts for the wastewater treatment plant. Depending on how many 23 24 tons of sludge the plant produces -- you'd have



trucking companies on call. You would have what

Page 32

		. 9
1		were called as-needed design services where you'd
2		have engineering firms under contract and you
3		would assign projects to them.
4		You had what was called skilled
5		maintenance contracts where you would have
6		contractors that would provide skilled trades work
7		at pump stations and water treatment plants and
8		the sewer plant. And that was all on an as-needed
9		basis. Some days they'd be doing nothing and some
10		days they'd have a full crew.
11	Q.	Those contracts would have a total contract
12		amount and they would work for a certain period
13		of time within that contract amount, right?
14	A.	You would start yeah, you would have a contract
15		amount that they could not go over without an
16		amendment increasing the price, and there would be
17		an initial time frame, and that would require a
18		contract amendment to shorten or extend it.
19	Q.	The sludge hauling contracts, the engineering
20		contracts, were those were there typically
21		amendments in connection with those types of
22		contracts?
23	A.	Yes.
24	Q.	Would the amendments not extend the time but
25		extend the budget?



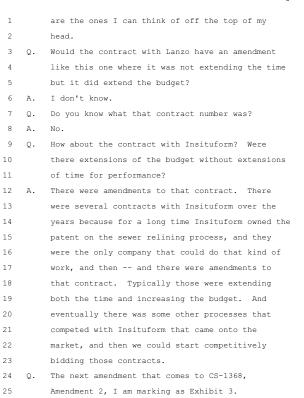
You could get any combination of that. You could have a time-only extension. You could have a

budget extension or you could have both.

SIENENSTOCK

ROBERT C. WALTER July 11, 2014

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ROBERT C. WALTER

July	11, 2	2014 Page 3
1		MARKED FOR IDENTIFICATION:
2		DEPOSITION EXHIBIT 3
3		11:08 a.m.
4	BY I	MS. BADALAMENTI:
5	Q.	Do you recognize that document?
6	A.	Um-hmm. I do.
7	Q.	When do you believe that Amendment 2 was entered
8		into?
9	A.	By city charter the official date of the contract
10		is the date of city council approval, which in
11		this case is well, it says December 20
12		either 20 or 30. I can't read the purchasing
13		director's handwriting, but it's December either
14		the 20th or 30th of 2004.
15	Q.	And what do you understand Amendment 2 to cover?
16	A.	This is the contract for the emergency work after
17		the sewer collapsed on 15 Mile Road.
18	Q.	That sewer collapse occurred August 22, 2004.
19		Does that sound about right now?
20	A.	That sounds right.
21	Q.	Would this there have been some discussions
22		with Inland Waters about the terms of this
23		amendment when it was put on the sinkhole repair
24		project, in other words, immediately or within
25		days of its occurrence?



1	A.	Yeah. Somebody at the department would have
2		talked to them about what it was going to take to
3		get them out there, get them mobilized, and get
4		the initial emergency stabilization work done.
5	Q.	Who would when you say someone at the
6		department, do you mean your department?
7	A.	Not me. Someone at the Water and Sewerage
8		Department.
9	Q.	Any idea who would have that type of conversation
10		or any idea who had that conversation?
11	A.	Well, on something this big, the director, Victor
12		Mercado, would have been involved, and some he
13		would have had some people from the engineering
14		department involved in that as well. I was not
15		involved in the meetings with Inland Waters.
16	Q.	When you when you do get involved, what do you
17		I guess what time frame do you get involved?
18		Is it within days or weeks?
19	A.	I was actually out at the site of the collapse a
20		couple days after it happened.
21	Q.	And why is that?
22	A.	Because it was a big emergency project and I
23		worked with Darryl Latimer on putting this
24		contract amendment together.
25	Q.	What information did you take from the site visit



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Page 38 0. Was Victor Mercado out there at the site? 3 He was out there at the site, yes. 4 Q. When you say the project engineers, who do you 5 remember being out there? Ramesh -- for the City of Detroit it was Ramesh Shukla, and there were some other people out 8 there, too, but he was the one that was the DWSD 9 point person. And I think Mercado said that he 10 was out there every day for the first month. 11 Q. That he himself or he, Shukla? 12 A. No -- well, both of them. 13 Do you know if the mayor was ever out there? 14 He went out there once that I know of, because I 15 saw photos of him with -- out there wearing a hard 16 hat and a safety vest. I don't know if he went 17 out there again, but I know Mercado gave him a 18 tour of the site. 19 Q. Are there actually in the City of Detroit --20 prior to city council approval, can amounts be 21 paid on contracts that are awarded but not 22 formalized by council approval? A. There is a procedure in the city's purchasing 23 24 ordinance for an emergency contract where you 25 have -- which the purchasing director has to

to put this contract together? Well, the site visit was just to go out there and see how bad the situation was. It was a huge hole 3 about 60 feet deep and there were four houses with 4 5 half their backyard in the bottom of the hole. There was going to be a lot of work for lawyers on a project like that. A lot of work for what? 8 9 Lawyers on a project like that. And so basically Darryl and I took the scope of work that the 10 11 engineers worked out with Inland Waters in the 12 original budget and put it in the city's amendment 13 form and fast-tracked it through the Board of 14 Water Commissioners for approval. 15 MR. FAISON: Can you keep your voice 16 17 THE WITNESS: Okay. 18 BY MS. BADALAMENTI:

So by the time you got out there a couple days

Waters project managers who were out there at the

later, the scope and the budget is already

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A. They were being worked out. 23 Ο. Being worked out by whom?

decided on?

24 By the department's engineers and the Inland



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19

20

21

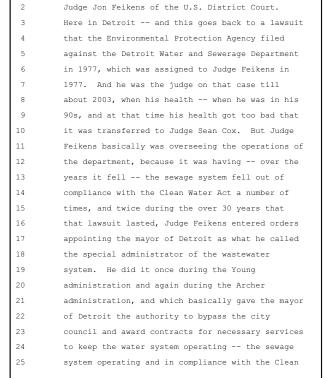
22

25

041	11, 2011
ı	Page 3
1	declare that this is an emergency and can award a
2	contract immediately, and I don't know if that was
3	done in this case or not. Actually, since I don't
4	see anything in here that says it was an
5	emergency, it may not have been done. If there
6	was an emergency declaration for this amendment
7	okay, yeah. I take that back. There is. There
8	is an emergency order. There is the first page of
9	an emergency order awarding this contract
10	amendment, which is probably why the date of city
11	council approval is blank. It wasn't approved by
12	the city council. This was awarded under an
13	emergency procedure. This was a special
14	administrative order, but this is just the first
15	page of it. There had to be a second page,
16	because it's incomplete. This is incomplete. And
17	this is different from the procedure under the
18	purchasing ordinance that I just outlined.
19	Q. Let me show you Exhibit 4.
20	MARKED FOR IDENTIFICATION:
21	DEPOSITION EXHIBIT 4
22	11:16 a.m.
23	BY MS. BADALAMENTI:
24	Q. It has what looks to be a similar page 1.
25	A. Okay. Is Amendment No. 3. Yeah, this is yeah,
ı	



this is the full emergency order. Okay. Ο. 3 So the second page of this order, there is a A 4 similar -- there has to be a similar page to 5 Amendment 2 that somehow isn't in the document. 6 but it would look a lot like this. And the -- would that be something that was Ο. retained with the City of Detroit, page 2 of this 8 9 10 Α. Yeah, there would have to be a second page because 11 it would require the mayor's signature. So there 12 is a second page to the order for Amendment No. 2. 13 It's just not in this package of documents I have 14 15 0. Do you know when that would have been signed? 16 No. The date isn't in here, so -- well, I'll tell 17 you all of the resolutions or the signatures are dated in November of 2004, so it might have been 18 done then. 19 20 And the reason why an emergency order or an order 0. 21 like this is done that's on page 2 of Exhibit 3 22 and page 2 and 3 of Exhibit 4 -- tell me again 23 why is this done. 24 This is -- this is a long story, but this was --25 the authority to issue orders like this was given



to the mayor of Detroit in an order signed by



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Water Act. And when Kwame Kilpatrick became the 2 mayor, he entered an order transferring the 3 special administrative powers from Mayor Archer to 4 Mayor Kilpatrick which basically gave the mayor 5 the power to award contracts without going through 6 the purchasing department. The City of Detroit's purchasing process is incredibly cumbersome, and from the 8 9 start to finish of awarding a contract it could take over a year. That's how dysfunctional the 10 11 city's purchasing department is, which made it 12 very, very hard to buy spare parts for the 13 equipment at the sewage plant which broke down and 14 couldn't be prepared because we couldn't get 15 parts. 16 So basically the judge in a fit of 17 exasperation or inspiration or whatever gave the 18 mayor the power to bypass the whole purchasing 19 system and just award contracts. And there were 20 monthly reports to the judge on what was done 21 under that power, and so this was not done under the purchasing director's emergency powers. This 23 was done under the emergency powers that the judge 24 gave to the mayor. 25 Prior to the order for Amendment 2 to CS-1368,



ROBERT C. WALTER July 11, 2014

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were you aware of any other contract that had been awarded by the mayor on this type of basis? 3 Α. There were several of them, and I don't remember 4 the numbers. 5 Ο. By Mayor Kilpatrick? 6 By Mayor Kilpatrick, by Mayor Archer, and by Mayor Young 8 0 Which were awarded by Mayor Kilpatrick under 9 10 I don't remember the numbers. 11 Any others to Inland that you're aware of? 12 I don't remember any, but that doesn't mean it 13 didn't happen. 14 Okay. When the federal investigation -- you were 15 interviewed in connection with the federal 16 investigation, was that part of what you were 17 asked about, this special administrative order? 18 I think I explained the process to them, yes. It 19 only applied to contracts for the sewage system. 20 They could not award contracts like that for 21 anything related to the water system, just sewage. 22 So the order's issued. And we don't know the 23 date for Amendment 2. 24 There was an order issued -- since the signature resolutions which would have been done around the



4

5

8 9

11

12

13

14

15

16 17

18

19

20

21

22

23

24

25

prepare?

BY MS. BADALAMENTI:

emergency orders?

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		_
1		same time are dated it was sometime in 2005,
2		but I'm not going to guess at the date.
3	Q.	I see city acknowledgement's dated
4	A.	Yeah, November 2005, so that might be when this
5		was signed.
6	Q.	Let me stop you. I see them dated November 2004.
7	A.	I'm sorry.
8	Q.	Resolution of corporate authority dated
9		November 10, 2004.
10	A.	Yeah. And which was a few months after the
11		collapse in August of 2004.
12	Q.	And this contract is eventually put through city
13		council; would you agree with that, or did that
14		not even occur?
15	A.	Well, if it's awarded by an emergency order by the
16		mayor, it did not have to go through city council,
17		so it would not have been submitted to the city
18		council. And the space on the boilerplate
19		signature form for entry of the city council
20		approval date is blank, which suggests that it was
21		never submitted to city council. It didn't need
22		to be.
23	Q.	Okay. So by November, you would agree with me
24		November 2004, that at least some of the work had
25		begun on the sinkhole repair?

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ROBERT C. WALTER

	11, 2	WALTER 2014
-		Page 4
1	Α.	Well
2	Q.	Hold on. Let me finish. Is it your
3		understanding that the special administrator, the
4		mayor, could only issue an order like this that
5		bypasses the traditional contract approval system
6		in an emergency situation?
7	A.	No. They were called special administrative
8		orders. I'm using the "emergency" word because
9		this project was a catastrophic emergency. But
10		they were awarded for any type of contractual
11		service that the city needed that could not be
12		the purchasing department could not supply in a
13		timely way.
14	Q.	And would you be provided with an order like this
15		when it was done for a particular contract that
16		you had worked on?
17	A.	I would review the contract for the Law Department
18		and then my supervisor would sign on the bottom
19		line of the signature page because the city
20		charter requires Law Department approval of all
21		contracts. So I would review this before my
22		supervisor signed it.
23	Q.	So going to there's a page in the document
24	A.	Which document are we looking at? Which exhibit
25		number?



They began work in August. They were out on the

Q. Would there have been payments made prior to the

Q. If -- assuming the November resolution dates are the date of the order, the pages we don't have to this order, would that mean that there were

were made. I never reviewed the invoices.

Q. Is this order something -- a form that you would

No. That -- those were typically prepared by Mark

Jacobs of Dykema Gossett. I never prepared one of

award of contracts under the emergency powers as

doesn't refer to emergency orders. Is that what

you're understanding is, that the special --

special administrator, Mark drafted those.

Q. Are they emergency orders that -- the title

MR. FAISON: Are you talking about

THE WITNESS: The emergency orders,

November date, if that's the date? I don't know when the payment --

payments issued prior to or not? 10 A. I don't know when the payments on this contract

emergency bypass, yeah.

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ROBERT C. WALTER

July		WALTER 2014
ı		Page 4
1	Q.	Amendment 2, which I believe is Exhibit 3.
2	A.	Amendment 2, which is Exhibit 3, okay.
3	Q.	There is a cover page for Exhibit B-2, Costing
4		Summary for Exhibit A-1. Do you see that there?
5	A.	Um-hmm.
6	Q.	Behind that cover page is a document prepared by
7		Mr. Shukla, who was from the engineering
8		department, right?
9	A.	Um-hmm.
10	Q.	Is that a yes?
11	A.	Yes. Yes.
12	Q.	Do you recognize this document?
13		MR. FAISON: Let me find it. Where are
14		we?
15		THE WITNESS: We're right here.
16	BY M	MS. BADALAMENTI:
17	Q.	You're in the original contract. We're in
18		Amendment 2.
19		MR. FAISON: Exhibit what?
20		MS. BADALAMENTI: 3.
21		THE WITNESS: Exhibit 3.
22		MR. FAISON: How far back?
23		MS. BADALAMENTI: Near the back. The
24		cover sheet looks like this.
25		MR. FAISON: Exhibit B-2.
ı		



```
MS. BADALAMENTI: Exhibit B-2.
                    MR. FAISON: Thank you.
 3
    BY MS BADALAMENTI.
        Do you recognize this document authored by
 4
 5
         Mr. Shukla?
         Well, it's part of the contract amendment, yes.
         Is it something you would have reviewed?
         I would have reviewed this when I reviewed the
 8
 9
          whole amendment, yes.
10
         The document is dated September 20, 2004. Do you
    Ο.
11
         have a recollection of a costing summary being
12
          prepared around that time?
13
         I did not prepare -- I don't prepare costing
14
          supplements. I don't prepare costing documents
15
          for these contracts.
16
    0.
         Would you need to approve the language?
17
    A. I would review it as part of the Law Department
18
          review, yes.
19
         Are costing supplements things that were used by
    Q.
20
          the DWSD?
21
    A. Yeah, there's -- well, there was a cost summary in
22
          every contract. There's a lump sum -- there's a
23
          total price, and then in a construction contract,
24
         it's a lump sum. But in a contract like this,
25
          there would be a breakdown what those costs were.
```



ROBERT C. WALTER July 11, 2014

Page 50 in Exhibit 2 is any sort of information about overtime, mobilization of equipment. Why is that 3 now dealt with in Amendment 2? 4 Α. Because Amendment 2 was for a different type of 5 work. Amendment -- the original contract document 6 is they go in and inspect the sewer. If it's a small sewer, they run a television camera through it. If it' a big sewer, you can walk through it. 8 9 And then there is a linear -- and I'm looking for -- well --10 11 Let me see if I can help you with it. Is it the case that the cost information sheet in the 13 original contract would include the manpower 14 required to inspect --15 Α. Yes. 16 MR. FAISON: Let her finish. You have 17 to let her finish the question, because the court 18 reporter has to take it down, as you know, 19 Robert --20 THE WITNESS: Yeah. 21 MR. FAISON: -- her question and your 22 answer, and I have to hear her question to find out whether or not I have an objection to it. So 23 24 if you would -- we're dealing with two fast 25 talkers here. Slow down the process a little bit.



- rates. It would depend on the type of contract.
- 3 There would be something breaking it down.
 - So the costing summary for CS-1368, the original 4
 - sewer lining project, is that something that we 5
 - see in these documents here?
 - Well, the costing summary in Exhibit 1 is several
 - pages -- more than several -- of unit prices for 8
 - sewer lining based on the diameter of the sewer 9
 - 10 and then the linear feet of pipe rehabilitated.
- 11 That would be Exhibit B-2?
- 12 This is Exhibit B, captioned Cost Information
- 13
- 14 Okay. Let me get the record situated here. It
- 15 would be Exhibit B to the document titled
- 16 Contract CS-1368, which we've marked as
- 17 Exhibit 22
- 18 Yes. Α.
- 19 Okay. Exhibit B to Exhibit 2 has these unit
- 20 prices, right?
- 21 Yeah. Exhibit B to Exhibit 2 is a long list of
- 22 unit prices based on the diameter of the sewer and
- 23 the number of linear feet rehabilitated or
- 24 realigned.
- 25 What I don't see in this cost information sheet



ROBERT C. WALTER July 11, 2014

- THE WITNESS: Okay.
- BY MS. BADALAMENTI:
- 3 Q. So the unit price that's shown in this cost
- 4 information sheet would include everything that
- 5 went into that particular type of work, the
- inspection service, use of television equipment,
- the manpower required? Everything would be
- 8 included within the unit price?
- 9 The unit price includes labor and material,
- 10 inspection work, everything. The contractor has
- 11 to set that price high enough to cover all of its
- 12
- 13 0. Does this original CS-1368 document provide for
- 14 overtime?
- 15 Α. No. It provides for unit prices, and if the
- 16 contractor has to work overtime, it has to take
- 17 the overtime -- pay for its employees out of this
- 18 unit price.
- 19 September 20th of 2004 we see Mr. Shukla now
- 20 providing for labor, overhead, markups, overtime.
- 21 These types of things are now going to be
- 22 included within the amounts that Inland can
- 23 charge; is that correct?
- 24 On the project covered by this amendment, which
- was the sewer collapse on 15 Mile Road only.

ROBERT C. WALTER

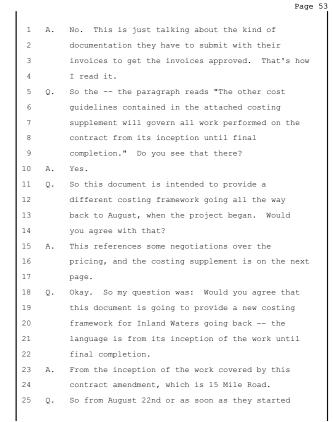
Page 52

Q.	Okay. Who would authorize Mr. Shukla to execute
	a costing supplement like this?
A.	The director, Mr. Mercado.
Q.	Who would authorize Mr. Mercado to do that?
A.	As the director of the Water and Sewerage
	Department, he had the authority to do that. I
	don't know if he discussed it with the mayor or
	not.
Q.	The next page is dated April 4, 2005.
A.	Okay. We're still in Exhibit 3, okay.
Q.	Right. This April 4, 2005 document is a letter
	by Victor Mercado. Do you see that there?
A.	Yes.
Q.	Is this something you've seen before?
A.	It's part of the contract. Yes, I've seen it
	before.
Q.	By April 4, 2005, has most of the work or some of
	the work been done on the project?
A.	Some of the work has been done. I think that
	project ran into June or July of 2005, before all
	of it was done.
Q.	This document by Victor Mercado dated April 4,
	2005, is proposing a different costing
	supplement. Do you understand that to be the
	case?
	A. Q. A. Q. A. Q. A.



ROBERT C. WALTER July 11, 2014

1		work thereafter August 22, 2004 collapse, they
2		start work. In April of 2005, we're now going to
3		go backwards and impose these this costing
4		framework; is that accurate?
5	A.	It looks like this is maybe modifying the
6		September 20th letter that Mr. Shukla wrote.
7	Q.	Who would, again, give Mr. Mercado let me ask
8		it this way: You said earlier Mr. Mercado would
9		have had the authority to direct Mr. Shukla to do
10		the first costing summary.
11	A.	Yes.
12	Q.	Would Mr. Mercado have authority, then, to do a
13		new costing summary?
14	A.	Yes, he would.
15	Q.	Would he need to get the mayor's approval to do
16		that, to the best of your knowledge?
17	A.	I don't know how much the mayor delegated that to
18		him. And I'm not sure
19	Q.	I don't want to cut you off. Were you
20	A.	No, go ahead.
21	Q.	Was this document something that you would have
22		reviewed, the letter dated April 4, 2005, or the
23		costing supplement that follows? Was that
24		something that you reviewed before it was made a
25		part of the contract?





uly	11, 2	2014
		Page 5
1	A.	I might not have because this was signed in
2		November 2004. I might not have depending on the
3		date of the administrative order. This may have
4		been added afterwards. I'm not sure.
5	Q.	Well, it's dated well after November 2004. You
6		would agree with that, right?
7	A.	Right.
8	Q.	You have no reason to believe that that was
9		something that was done before April of 2005, do
10		you?
11	A.	No.
12	Q.	The signature on the bottom, do you recognize
13		that to be Victor Mercado's signature?
14	A.	That's his handwriting.
15	Q.	Dennis Oszust from he signs as the vice
16		president, general manager of the company, Pipe
17		Rehabilitation Group?
18	A.	No, that's the group within Inland Waters. The
19		company is Inland Waters Pollution Control,
20		Incorporated. The Pipe Rehab Group was a group
21		within that company.
22	Q.	Okay. Did you know Mr. Oszust?
23	A.	Yes, I've met him a number of times.
24	Q.	Did you meet him in connection with this project
25		or with this Amendment 2, I should say?

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```
Not with this amendment. I was dealing with DWSD
         staff on this amendment. I didn't talk to him
 3
         about this
         Were you present when this document was signed by
 4
 5
         Mr. Mercado --
 6
    Q. -- or Mr. Oszust?
 8
                   The pages that follow, CS-1368
 9
         Amendment No. 2 costing supplement, there are some
10
         initials there on the document and there's a date
11
         of 3/17 of '05. I deposed Mr. Shukla, and he
12
         indicated that one of those initials were his. Do
13
         you recognize the other one?
14
    A. No. It looks like D.O., which would mean Dennis
15
         Oszust, but I'm guessing.
16
    O. In your dealings with contracts for the DWSD, had
17
         you had occasion to see a costing supplement that
18
         was redone like was done in this case, where
19
         there's actually a second costing supplement that
20
         issues for the same contract?
21
   A. No.
22
   Q. Do you know how this -- or who directed that this
23
24
    Α.
         This would have to come from Mr. Mercado.
25
         Did you know what the standard markup or layers
```



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Page 58 date of that? A. The date of the special administrator order is 3 May 18, 2005. 4 MS. BADALAMENTI: I'm going to indicate 5 that appears to be two pages on the back of exhibit where they don't belong. I just noticed that. If you want to pull them off, everybody -they should not be on that document. It will just 8 9 cause confusion later on. THE WITNESS: You can have that back. 10 11 MS. BADALAMENTI: We'll mark it separate. 13 BY MS. BADALAMENTI: Q. Do you recognize the date that Amendment 3 was 14 15 entered into? 16 A. It's the date of the special administrative order, 17 which is May 18, 2005. 18 O. Do you know how far in advance of May 18, 2005, 19 this amendment would have been proposed or 20 discussed by somebody at DWSD in order for it to 21 be -- you know, in order for the order to be signed on 5/18 of '05? A. I don't. 23 24 Q. Is it a process that takes days or weeks or 25

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of markups were for DWSD contracts? It varies from contract to contract, and it's 3 negotiated with the contractor. Was this costing supplement something you were 4 5 asked about when you were interviewed by the FBI? I think you said you didn't --Actually I was interviewed by a U.S. attorney, not 8 9 an FBI --10 0. I thought it was probably a bad guestion when I 11 said it, so thank you for correcting me. I know 12 you weren't around when it was done, this 13 April 4, 2005 costing supplement, but did you 14 have occasion to see it when it became -- or at 15 any point before retiring from the Law 16 Department? 17 A. I don't remember seeing it. I may have -- I may 18 have looked at this when I was reviewing Amendment 19 No. 3, because typically you look at the previous 20 amendments in the contract to see what changes are 21 being made. So looking at Amendment No. 3, which I think is 23 the document that we marked as 4 --24 Α. 25 -- Exhibit 4, so Amendment No. 3, what is the

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Jul	y 11,	
ı		Page 59
1	Α.	It depends on the complexity of the project. It
2		can it can take weeks. You know, at some point
3		engineering staff would have to propose something
4		like this to the director who would have to review
5		it and approve it.
6	Q.	Well, in the case of Amendment 2, we know that
7		the sinkhole collapse occurred in August and we
8		don't see the we don't see the resolutions
9		dated until November. Is that a typical time
10		frame or would you expect to see it shorter or
11		longer than that?
12	A.	That's the time frame it took to get that
13		amendment written, agreed, but the contractor
14		actually started work before then. And by city
15		purchasing standards, that's actually pretty fast.
16	Q.	Okay. So Amendment 3 would have to also be
17		written, prepared, approved by everybody so
18	A.	Yes.
19	Q.	it would be a matter of months between the
20		time that the discussions begin that, hey, we
21		need an Amendment 3 here until
22	A.	It could be
23	Q.	until the time you see Mayor Kilpatrick
24		signing this order?
25	A.	It could be a couple of months or a couple of

1		1490
1		weeks. I'm not sure. It depends on the project.
2	Q.	Okay. And Amendment 3 is issued for the purpose
3		of increasing the budget for the sinkhole
4		repairs; is that true?
5	A.	Yes.
6	Q.	The amount of the increase is
7	A.	\$23 million.
8	Q.	\$23 million added to the amount of the
9		Amendment 2?
10	A.	Yeah. It's on page 3. Add 23 million, so the
11		new so the new total is 118 million.
12	Q.	Was that for work that had been done up to that
13		point and going forward, or was all of that 23
14		million still to be done?
15	A.	I don't know. It is fairly common in the city
16		contracting process for when a contract runs out
17		of money, the contractor will keep working while
18		the amendment putting more money into the project
19		is processed, but they can't get paid until the
20		amendment's approved. Contractor will sometimes
21		take on the risk f the amendment not being
22		approved, but in this case, it was.
23	Q.	So well, in this case it was approved by
24		special order, right?
25	A.	Yes.



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Page 62 question, and if he said there's more work to be done, I would have taken his word for it. 3 Ο. The work to be done had already at least been 4 started at that point, correct? 5 I don't -- well, the whole project, the work that Α. 6 Inland Waters started in August, and --Ο. Of '04, and they had been working -- they and 8 9 their subcontractors had been working out there 10 continuously. 11 Q. So was it your understanding at the time 12 Amendment 3 is entered into that the whole budget 13 had been used or that the whole budget had been 14 used and there was more money due already? 15 A. My understanding would have been that the current 16 budget was not enough, and that they were going to 17 use -- need more money to complete the work. 18 Whether that was -- whether they had spent 19 everything or whether they had some left, they 20 were going to run out, I don't know. 21 Q. Was that something you customarily checked on, 22 how much had they spent -- "We're entering into this Amendment 3 and we're preparing this 23 24 document. How much has been spent so far?" 25 I generally didn't ask that question. I did not



3 the special order was going to issue to approve?

During the negotiation the contractor should have 4

5 been told that there would be a special

administrator order approving it, so if the

contract had run out of money, they would have kept working knowing that they would be paid 8

9

Would the contractor have known that a special 10 0.

11 order was the means by which Amendment 2 was

12 approved? In other words, would they know that

13 skipped the city council's purchasing approval

14

15 Α. I was not involved in that discussion. I'm sure

16 that that would have been discussed and they would

17 have been told that, ves.

18 Do you know what necessitated this additional

19 \$23 million in Amendment 3?

20 I did not -- I don't know what the -- all of the Α.

21 work that was done out there. I do know that

every time they got into the tunnel, they found

23 things were deteriorating and getting worse.

24 Q. Did you ever ask why \$23 million more?

25 At some point I would have asked Shukla that



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1	review	 Ι	never	reviewed	the	contractor

invoices. I just -- if they told me that they

Page 63

3 were running out, that the budget needed to be

4 increased to complete the project, I would believe

5 that and do it.

And who other than Mr. Shukla would give you that

information?

8 Either Darryl Latimer or Mr. Mercado.

9 Did Darryl Latimer have any discussions with you

in connection with Amendment 3 about amounts that

11 had been disallowed with respect to the sinkhole

12 repair work?

Α. 13

10

16

Did anyone discuss with you before Amendment 3 14

15 was drafted or executed that there were concerns

about overcharges on the project?

17 A.

18 Ο. Did you actually prepare the text of the

19 amendment?

20 No. Those amendments are boilerplate forms that

21 the contracts administration group would prepare.

22 And Darryl Latimer was the head of that group at

23 that time.

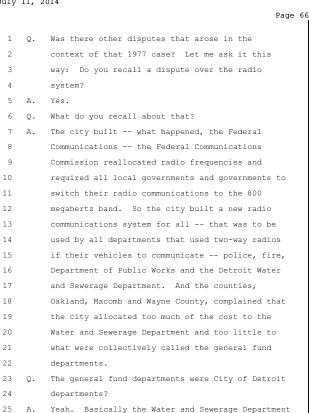
24 Does this amendment extend the time and budget or Q.

just the budget?

1	A.	This is amendment No. 4.
2	Q.	Amendment No. 3, Exhibit No. 4.
3	A.	Okay. Well, this just increases the budget
4		without increasing the time.
5	Q.	Were you aware of any of the communications back
6		and forth between Mr. Shukla or Mr. Mercado or
7		Mr. Latimer that lead to Amendment 3?
8	A.	No.
9	Q.	Is that something that would typically go through
10		the Law Department?
11	A.	No. Typically they would negotiate the contract
12		and then submit the whole contract to the Law
13		Department.
14	Q.	Did you in connection with Exhibit 2 I'm
15		sorry, in connection with Exhibit 3, which is
16		marked which is actually Amendment 2, and the
17		costing supplement at the back of that
18		document Mr. Mercado's costing supplement
19		dated April 4, 2005, were you aware of any drafts
20		that had gone back and forth about that costing
21		supplement?
22	A.	No.
23	Q.	Were you aware of who proposed those terms,
24		whether it was the contractor or Inland Waters
25		who proposed the materials?



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Inland Waters was the contractor, and I don't know 2 who proposed. 3 I'm sorry. Were you aware whether Inland Waters 4 proposed terms for the costing supplement or 5 whether it was something Mr. Mercado wanted? A. I don't know. O. Okav. MS. BADALAMENTI: Do you want to take a 8 9 break? MR. FAISON: Sure. 10 11 (Off the record at 11:50 a.m.) 12 (Back on the record at 12:09 p.m.) 13 BY MS. BADALAMENTI: 14 What was your involvement -- let me ask it this 15 way: At some point there begin to be, in the 16 context of that 1977 case you were talking about, 17 disputes between Macomb County, Oakland County 18 and the City of Detroit. Are you aware of that? 19 There was a constant series of disputes. 20 What sort of disputes were you aware of? 21 A. Mostly over sewer rates. 22 0. Over -- I'm sorry? 23 A. Sewer rates that the city was charging. The 24 counties were constantly arguing that they were 25 too high.

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ı	1		Page
	1		is what the city calls a revenue department. It's
	2		self-supporting off the water and sewer revenues.
	3		And general fund departments are the ones that are
	4		funded by tax revenues.
	5	Q.	Do you recall a dispute involving the allocation
	6		of the repair costs for the sinkhole?
	7	A.	Yes.
	8	Q.	What was the nature of that dispute?
	9	A.	At some point Macomb County suggested that the
	10		cost should be allocated to all of the customers
	11		of the sewer system, and the Water and Sewerage
	12		Department had allocated the full cost to Macomb
	13		County.
	14	Q.	It was determined that it was a Macomb-only
	15		project?
	16	A.	Yes.
	17	Q.	And the dispute in the 1977 case wasn't with the
	18		amount the total amount of the project. It
	19		was with the allocation of it to Macomb only?
	20	A.	Which project? Is that the sewer repair project
	21		or the 800 megahertz project?
	22	Q.	Let me ask more clearly. With respect to the
	23		2004 sewer collapse and the repairs, that
	24		project, was the dispute in the 1977 case limited
	25		to whether or not the repair costs should be



4

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10 Ο.

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Ο.

0.

-- in that lawsuit?

department who was involved?

Can you say that name again.

Koester who was working with me.

Was there anybody else from your

By 2004, yeah, there was lawyer named Laurie

K-o-e-s-t-e-r, pronounced "coaster," but she had just started working with me and she really wasn't

And the attorneys -- the outside counsel for the

city in that case was Mark Jacobs; is that right?

F-r-a-n-z-i-n-q-e-r, on that case. I'm not sure.

And Marilyn Peters was the litigation counsel and

Mark -- Mark is an environmental law specialist at

along with me. Marilyn Peters is a litigator with

Dykema. He's in their environmental department,

but he did general counsel and contracting work

And I think you said earlier you don't litigate?

I stopped doing litigation in the early 90s. I

just transitioned into more transactional work.

Mark Jacobs was sort of the counsel who handled

the contracting or negotiations; is that fair?

Mark Jacobs and a partner of his named Marilyn

Peters, and they may have used Bob Franzinger,

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```
allocated to Macomb only?
 2
         There came a time eventually when Macomb
    Α.
 3
          questioned the total cost, but the initial dispute
          was just over the allocation.
 4
                     MR. FAISON: Just a minute. Are we
 5
          talking about 1997 or 2004?
                    MS. BADALAMENTI: I'm talking about the
 8
         2004 repair costs.
 9
                     THE WITNESS: 2004 collapse, there was
          a dispute in which Macomb County suggested that
10
11
          the project -- that the cost of the repair should
12
          be spread over other communities served by the
13
         Detroit sewage system and not just Macomb County.
14
     BY MS. BADALAMENTI:
15
    O. The Judge Feikens made a determination on that
16
          question of whether or not it's a Macomb-only
17
         project or not, didn't he?
         He did. Mr. -- I read the opinion, I think,
18
    Α.
19
          Tuesday of this week, earlier, yeah.
20
         Was that the first time that you had read it?
    Ο.
21
         I probably -- I'm sure I read it when he issued
22
23
         Were you the liaison between DWSD and the
    Ο.
24
          attorneys representing DWSD --
25
    Α.
          Yes.
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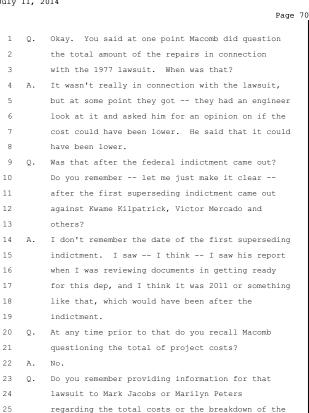
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total costs on the repair project? MR. FAISON: Just a minute. THE WITNESS: I'm a little confused. 3 4 MR. FAISON: Object to the question. 5 There's been no testimony about a lawsuit per se, 6 not vet. BY MS BADALAMENTI. Okav. In the context of that 1977 case and the 8 9 claims that Macomb asserted regarding the 10 allocation of those repair costs to it as opposed 11 to spread out to all communities, did you provide 12 any documents to Macomb or to your counsel on 13 that case to be provided to Macomb? 14 I did not, no. 15 Are you aware of whether or not any documents 16 breaking down the repair costs were provided? 17 I did not do any active work on that case. Mark 18 and Marilyn did that. 19 So you would not have been involved with the 20 creation of any spreadsheets or other documents 21 that were provided to Macomb that itemized the

Okay. What other disputes were involved in the

1977 case -- let me see if I can streamline it

22

24

23 A.

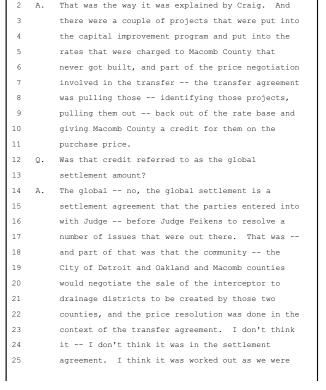
total costs?

No.

been constructed?

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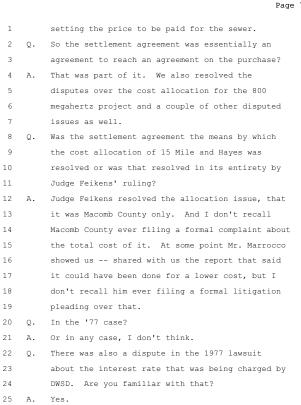
		. 9
1		for you. There was questions about phantom
2		improvements that were included within the rates;
3		is that right?
4	A.	That was not in part of the 1977 the way the
5		1977 lawsuit was administered, there were a series
6		of consent judgments that were entered by Judge
7		Feikens, so every time there was a dispute between
8		one of the counties and DWSD, rather than filing a
9		lawsuit, they would file a motion in that lawsuit
10		as a way of keeping it in front of Judge Feikens.
11		So that was it was a unique procedure, unique
12		to Judge Feikens. You don't file a complaint.
13		You have to file a motion or something. But
14		that's the way it was done. And the phantom
15		projects issue was not raised. It was sort of
16		raised when we were negotiating the transfer of
17		the interceptor to Macomb and Oakland counties,
18		which was part of the resolution ultimate
19		resolution of that lawsuit. But Craig Hupp, I
20		think, who was Macomb County's lawyer in those
21		negotiations created the word "phantom projects."
22	Q.	And phantom project, as it was referred to at
23		that time, was a project that was included in
24		part of the rates that the local communities were
25		paying the DWSD, but the project had not actually





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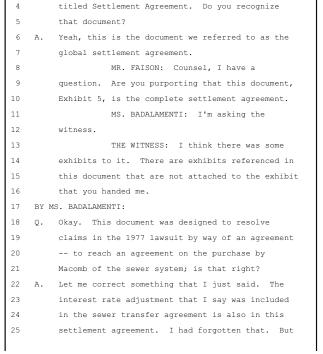
		Page '
1	Q.	There was a dispute over whether or not the bond
2		interest rate could be added onto by DWSD and
3		there was a claim that DWSD was trying to make a
4		profit on that?
5	A.	There was a claim by Macomb County that the
6		interest rate was higher than it should have been,
7		and they asked that that interest rate be reduced,
8		and that was done in the context of the
9		negotiation of the purchase price of the sewer,
10		and they did get a credit on that. Detroit agreed
11		to recalculate the interest rate, get a lower
12		rate, and give them a credit for the difference.
13	Q.	And was that credit part of the global
14		settlement?
15	A.	No, that was part well, the agreement
16		transferring the sewer was one component of the
17		global settlement, but it's a separate contract.
18		There's a settlement agreement that says we will
19		negotiate the transfer of the interceptor, and
20		then there was the actual contract transferring
21		the interceptor. So it's two separate documents.
22	Q.	The discussions about the first component, which
23		was that we're going to agree to transfer the
24		Macomb Interceptor system to Macomb
25	A.	Yes.



BY MS. BADALAMENTI:

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		Page /
1	Q.	that what led to that? Was it all of these
2		disputes or was it the interest rate?
3	A.	It was the whole collective thing, and another
4		thing that led that drove that was after the
5		sewer collapse had been repaired, the city hired
6		an engineering firm to do a survey and inspection
7		of the whole interceptor the entire length of
8		it. And they came back with a report that said
9		there was deterioration throughout the whole
10		length of all of the interceptors, and with an
11		estimated repair cost of over \$100 million, and
12		that was what really started the conversation
13		about the interceptor transfer going.
14	Q.	Was that consultant NTH Consultants?
15	A.	Yes.
16	Q.	Was that report complete by the time that the
17		settlement agreement is entered into?
18	A.	I don't know. It was certainly complete by the
19		time the sewer transfer contract was completed. I
20		don't know if it was completed by the time the
21		global settlement agreement was signed, but it was
22		certainly done by the time the sewer transfer
23		contract was signed.
24		MARKED FOR IDENTIFICATION:
25		DEPOSITION EXHIBIT 5



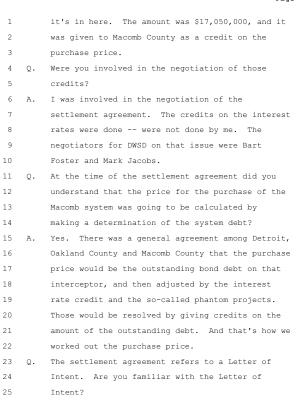
12:25 p.m.

Okay. I've marked as Exhibit 5 the document



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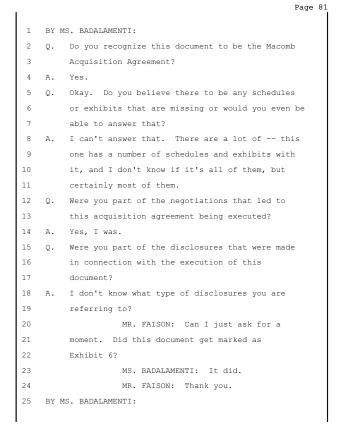




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1	11,	Page 7
1	A.	Yes.
2	Q.	Do you know whether that Letter of Intent was
3		ever executed?
4	A.	I believe it was.
5	Q.	Just to make the record clear, the document that
6		I handed you that's titled Settlement Agreement
7		has been marked as Exhibit 5; is that correct?
8	A.	Yes.
9		MARKED FOR IDENTIFICATION:
10		DEPOSITION EXHIBIT 6
11		12:30 p.m.
12	BY	MS. BADALAMENTI:
13	Q.	The document that I've marked as Exhibit 6 is
14		titled the Macomb Acquisition Agreement. It's
15		dated September 2nd of 2010. Do you recognize
16		that document?
17	A.	Yeah. This is it's got an Exhibit A marked all
18		over it, too. I assume that's from something
19		else.
20	Q.	Short of that Exhibit A, do you recognize the
21		document?
22	A.	Yeah, this is the contract under which the City of
23		Detroit transferred the Macomb Interceptor to the
24		the Macomb Interceptor Drain Drainage District and
25		the County of Macomb.

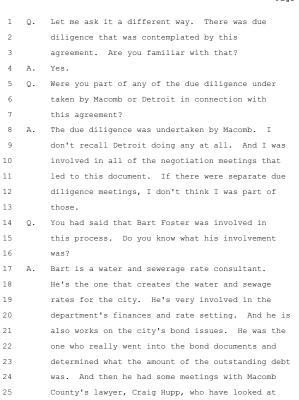
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1	MR. FAISON: Counsel, again, does this
2	document purport to be the complete document?
3	MS. BADALAMENTI: I'm asking the
4	witness.
5	MR. FAISON: Well, let me say for the
6	record, I mean, you produced the document. You,
7	produced the document. You identified it. If
8	it's not a complete document and you don't want to
9	say so, then you have to ask the witness whether
10	this is a complete document or not.
11	MS. BADALAMENTI: Well, generally the
12	attorney asking the questions decides what
13	questions are appropriate to ask, but I haven't
14	asked the witness anything other than whether or
15	not he recognizes the document, so why don't you
16	give me opportunity to ask him about the document,
17	and then if you're not satisfied, you can follow
18	up.
19	MR. FAISON: If you're going to
20	represent a document to be something, I'm entitled
21	to at least understand what your representation
22	is.
23	MS. BADALAMENTI: Okay. Your objection
24	is on the record.
25	THE WITNESS: What's the question now?





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the same documents and they -- they're the two who ultimately did most of the negotiating, looked at 3 the final numbers. 4 I took the deposition of Bart Foster, so let me 5 try to streamline some of these questions. 6 It's my understanding that Bart Foster was 8 provided with some project information and a 9 project total for any project that was undertaken 10 to repair, construct the facilities that were 11 going to be a part of this purchase. Is that a fair characterization? 13 I would assume that he had that information, yes. Do you know whether he was provided with project 14 15 files or invoices or ever reviewed the legitimacy 16 of charges? 17 I don't know if he did that or not. 18 Do you know whether it was his custom and 19 practice to do that for Detroit? 20 Bart was not involved in administering or 21 overseeing construction projects in any way, so he 22 probably looked at -- I'm not going to speculate, but he was not involved in managing the repair 23 24 work or overseeing any other construction projects for the department.



4

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23

24

25 Α.

11 A.

predated that?

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1		Page
1	Q.	In the course of calculating that system debt
2		total, were you asked to provide any project
3		files to Bart or to Macomb County?
4	A.	No.
5	Q.	Were you asked to provide any project information
6		or project totals to Macomb County?
7	A.	No.
8	Q.	Do you know that Mr. Shukla provided some
9		information regarding projects?
10	A.	I'm not aware of that.
11	Q.	Do you know who provided Bart Foster with the
12		information that he needed?
13	A.	It wasn't me. I don't know who he talked to.
14	Q.	The document the negotiation surrounding this
15		purchase went on for a number of years, as I
16		understand. Is that your understanding?
17	A.	I don't know about years, but certainly several
18		months.
19	Q.	The document is dated September 2nd, 2010. How
20		long before that do you think the negotiations
21		began?
22	A.	We started the negotiation sometime in 2009. I
23		don't remember exactly when, but
24	Q.	The settlement agreement that's in front of you

is marked May 12, 2009. Would the negotiations

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Page 86 Were you involved in the preparation of this document? 3 A. This was put together primarily by Craig Hupp and 4 Bart Foster. I was not involved in those 5 meetings. Q. There's a line item for CS-1368, the 2004 repairs, and there's a total of in excess of \$54 million. Do you see that there? 8 9 10 Do you know how that total was arrived at? Ο. 11 Q. Do you know what disclosures were made with 13 respect to that amount? 14 15 O. Were there any questions from Macomb County 16 regarding that amount? 17 18 Q. Are you aware of whether or not there were any 19 representations made to Macomb County by anyone 20 regarding CS-1368? 21 A. No. I mean, I didn't make any. I don't know what 22 anybody else might have said. Q. Were any of these -- let me take you back. On 23 24 page 2 of 25 of the acquisition agreement there's 25 paragraph 1.10. Do you see that?



regarding the purchase of the system have

Q. And how long did the negotiations go on prior --

Oh, they would have started in 2008, sure.

2007 were there discussion about Macomb's

recollection is that the catalyst that started the

discussion about transferring the interceptor was

the NTH report on the condition of it, so it would

have been after that report was provided to the

I'll let you get to it. It's marked on the top

page ID 3613. Have you seen this document?

16 A. I don't remember. The real catalyst that -- my

22 $\,$ Q. There is a schedule 3.8 within these documents.

with respect to the execution of the settlement

they would have started after this. Q. The settlement agreement contemplated purchase of

the system; is that right?

agreement and those terms?

purchase of the system?

Okay. Into 2008 or before that?

Several months.

counties.

I think this -- they would have started -- I think

	RT C.	WALTER 2014
		Page
1	Α.	Okay.
2	Q.	"'Detroit's knowledge' shall mean the actual
3		knowledge of its Director, its Assistant
4		Corporation Counsel assigned to DWSD matters, its
5		Assistant Chief of Engineering or its Engineering
6		Support Manager Craig Stanley." Do you see that?
7	A.	Yes.
8	Q.	Who was the director being referred to in that
9		paragraph?
10	A.	At that point the director of the department was
11		Pamela Turner.
12	Q.	And when did Pamela Turner become the director?
13	A.	After Victor Mercado resigned. I don't remember
14		the date. But she was the deputy director under
15		Mercado. She she came in after Mercado.
16	Q.	Was there an interim director that served
17		somewhere in there, too?
18	A.	Yeah.
19	Q.	Who was that?
20	A.	Anthony Adams.
21	Q.	Anyone else?
22	A.	No. My recollection is that after Mercado Pam
23		Turner, I believe, was the deputy director under
24		Mercado, and when he resigned, Anthony Adams
25		became interim director for about six months. And

then Pam became director. How long did Pam serve as the director? 0.

3 Α. Oh, three or four years.

And who --4 Ο.

5 She retired after I did. Α.

6

Wait. I'm sorry. She retired -- she retired

about six months before I did

9 0. Did someone else take her position that you knew

10

8

11 Α. Yeah.

12 Ο. Who was that?

13 Α. Susan McCormick, I think, is her name.

14 The assistant corporation counsel assigned to

15 DWSD matters referred to in this paragraph, would

16 that be you?

17 A. Yes.

18 O. The assistant chief of engineering at that time

19 would have been who?

20 I don't remember. Α.

21 Ο. And --

22 A. One of Shukla's assistants, but I'm not sure what

23

24 Q. Shukla was chief of engineering at the time?

25 He was the assistant director at that time --



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Α. Never.

-- Bobby Ferguson? Ο.

3 A

4 Other than the instances that you told me, did

you have discussions with Inland?

6 А.

5

14

The representations in this --Ο.

I'll take that back Inland Waters has done many 8

9 contracts over the years, and I had conversations

with Dennis Oszust about other projects. I didn't 10

11 deal with him directly on this one.

12 Q. Okay. I'll take you to paragraph 3.7 of the

acquisition agreement. Paragraph 3.7 provides 13

"Except as set forth in Schedule 3.7...there is

15 no action, suit or proceeding pending or, to

16 Detroit's Knowledge, threatened against or

17 affecting Detroit before any governmental entity in which there is a reasonable possibility of an

18

19 adverse decision which could have a material 20

21 perform its obligations." Do you see that?

22 A. Yes.

"...or which in any manner questions the validity $% \left(1\right) =\left(1\right) \left(1\right) \left($ 23

adverse effect upon the ability of Detroit to

of this agreement." The capitalized term "to 24

25 Detroit's Knowledge" would include your

those days Victor Mercado resigned in 2008; is that right?

assistant director in charge of engineering. The

department had four or five assistant directors in

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3

4

5 Α. I believe so, yes.

6 In connection with the 1977 lawsuit, did you

become aware at any point of Victor having 8

requested from Judge Feikens that he be appointed 9 as special administrator in the place of

10 Mr. Kilpatrick?

11 A.

12 Do you know what the circumstances of Victor's

13 resignation were?

14

15 0. Do you know the reason he gave for resigning?

16 Α.

17 Do you know if he was asked to resign?

18 T don't. Α.

19 Do you know if there was tension between

20 Mr. Mercado and Mayor Kilpatrick at the time he

21 resigned or prior to?

22 Α. I don't know.

23 In your capacity as assistant corporation counsel

24 on the DWSD matters, have you had occasion to

25 have meetings with Mr. Ferguson --



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knowledge, right?

2

3 Q. And prior to this, September 2nd, 2010 date, you

4 had been interviewed by a U.S. attorney in

5 connection with 1368; is that true?

Not in connection with 1368. In connection with

general city contracting procedures. They never

8 asked me specific questions about 1368.

9 Were you ever present when Mr. Shukla was

10 interviewed?

11

12 The documents that you were asked to put together

13 for the grand jury subpoenas, were those

documents including documents related to 1368? 14

15 Α. I was never asked to put together documents in

16 response to a grand jury subpoena. I was shown 17 the subpoena and asked by either Mr. Mazurek or

18 Mr. Keelean where in the Water Board Building

19 those files would be and who would be the

20 custodian of them. They're the ones who actually

21 went and found the documents and put together the

document packages for the grand jury.

23 Q. Was that in inquiry with respect to 1368?

24 I don't remember the specific contracts that were mentioned in the subpoenas. I would have known it







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at the time, but I have honestly forgotten all 2 that.

3 Paragraph 3.8 Disclosure of System Debt, do you Ο. 4 see that paragraph?

5 Α.

6 The last sentence of that paragraph, "None of the written data or information furnished or made available to Macomb County by Detroit as part of 8 9 the due diligence," do you know what material was 10 furnished to Macomb County as part of the due 11 diligence?

12 A. No, I don't.

13 Would Mr. Shukla or anybody else who's included 14 within that category of Detroit's knowledge know 15 what documents were provided?

16 Shukla was not on the negotiating team for this Α. 17 acquisition agreement, so it would not have been

18 him. The due diligence mostly related to the

19 finances, so that would have been Bart Foster. 20 Paragraph 5.3 of this agreement provides that 0.

21 Detroit shall promptly inform the Macomb County 22 and MID of any claims which it becomes aware that

23 might reasonably be expected to become the

24 subject of litigation affecting the Macomb

25 system. Did you make any disclosures to Macomb



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limitations for tort lawsuits in Michigan is three 2 years, so by this time this was done, the -- well, 3 okay. The statute of limitations for those had 4 run out, if there were any others that were 5 pending out there. 6 The other thing that was out there that we became aware of during this negotiation and during -- which actually was discovered, I think, 8 9 by NTH when they did their survey of the whole 10 sewer is that back in the early 1960s when the 11 sewer was built, there were times when the tunnel boring machine that was 50 feet underground 13 strayed out of the path of the easement, and there 14 were several parts -- segments of that sewer 15 system where the sewer was outside the scope of 16 the easement, which means it was a trespass. And 17 we certainly notified them of that. They got that 18 information when they had the NTH report. And 19 there was an agreement, which I think is spelled 2.0 out in here, in the agreement. We weren't going 21 to hold up the agreement to the contract to 22 correct all the easements. There was an agreement 23 that Macomb County would take responsibility for 24 obtaining the easements for the -- Macomb County 25 would obtain new easements for where the sewer



and paid the settlement.

with this paragraph?

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actually was, and Detroit would reimburse them for

County about claims or threatened claims which

We had a couple of lawsuits arising out of the

sewer collapse which were disclosed to Macomb

County during the negotiations, and there is a

second later on about retained liabilities. There

were property damage lawsuits by people who owned

property adjacent to the sewer collapse, and one

of them I -- we settled both of them. One of them

I know we settled before this document was signed.

The other one was -- I don't remember if we did it

lawsuit with the homeowners whose backvards were

at the bottom of the hole. There were about ten

remember if that was done before or after this

Other than those disclosures, did you make any

No, I don't recall any. No. Those were the

signed, the statute of limitations for filing

claim -- lawsuits for tort -- statute of

other disclosures to Macomb County in accordance

claims we were aware of, and by the time this was

lawsuit was signed, but DWSD kept that liability

before or after, but Detroit -- that was the

of them. DWSD settled those. And I don't

you were aware at that point?

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Page 95

that cost.

3 Ο. Did you become aware of before you retired a

4 claim that was asserted by the City of Detroit

5 against the contractors and subcontractors

6 involved in 1368?

17

8 0 What do you know about that?

9 What I know about that is that at some point

10 somebody in the city -- and I think it was the

11 director of the Law Department, determined

12 after -- I think this was after the convictions in 13 the criminal prosecution of Mayor Kilpatrick and

Bobby Ferguson and Victor Mercado, that there was 14

15 a possibility of suing those companies for the

16 amounts that they were paying in bribes and

18 Ms. Crittendon asked me to sit on the interviews

kickbacks, and my involvement in that was 19 with the law firms that she was considering hiring

20 to do that work. And so I sat in on interviews

21 with about four different law firms, and

22 Ms. Crittendon made her selection. And then those

23 cases were filed, and at that point I was getting 24 ready to retire, and I wasn't much involved in the

cases that were filed.



4 5

8 9

10 0.

11

12

13

14 15 0.

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1	Q.	During that process did you come to learn the
2		amount that Detroit would claim was overcharged
3		on 1368 or used or paid out in the kickbacks?
4	A.	No. I was just involved in interviewing the law
5		firms. I think I wrote the legal services
6		contract for Miller Canfield after Ms. Crittendon
7		selected them, but after that, I was out of it.
8	Q.	What other firms were interviewed other Miller
9		Canfield?
10	A.	Dykema Gossett, and there were two others and $\ensuremath{\mathtt{I}}$
11		don't remember I think Butzel Long might have
12		been one of them, and there there was another
13		one, and I don't remember who it was. I seem to
14		remember interviewing four law firms.
15	Q.	Did you interview Bodman?
16	A.	I don't think they applied for it. That would
17		have been a real conflict of interest given their
18		representation of Macomb County. No, I don't
19		think they were on the list.
20	Q.	Did you learn before your retirement that Detroit
21		had recovered in excess of I should say at
22		least \$7 million in settlements with the
23		contractors and subcontractors they had asserted
24		those claims against?
25	Α.	I think those settlements came after I retired. I



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8

10

marked it as Exhibit 7? Is this the Letter of Intent we were referring to earlier?

3 Α. This is the Letter of Intent, although this copy 4 is not signed.

5 But do you believe it was signed? Ο.

My recollection is that it was, but I don't see a

signed copy here. Maybe it wasn't. My

recollection is that it was, but --

9 Section 9, Conduct of Operations, refers to in

several paragraphs that you were to obtain the

11 consent of the transferee to any -- in certain

circumstances. In particular, paragraph 9(d)

13 provides obtaining consent of the transferee to

any extraordinary transaction or any transaction 14 15 which is not at arm's length with any person or

16 entity, in either case relating to the property." 17 Did you ever obtained Macomb County's consent to

18 any extraordinary transaction or transaction not

19 at arm's length?

20 I did not. Α.

21 Who were you interviewed by at the United States

22 Attorney's Office? Who were you interviewed by?

A. It was an assistant U.S. attorney and an 23

24 investigator from the Environmental Protection

25 Agency's Inspector General, a man and a woman. I



was not involved in those cases in any way. The acquisition agreement, and in particular,

project. Would you agree with that?

Waters covered more than just this work. Do you understand the sinkhole repair to have

between Detroit and the contractors and

A. I was not involved in those at all.

more than \$54 million?

subcontractors?

this as Exhibit 7.

BY MS. BADALAMENTI:

cost more -- total of the repairs to have been

No, it's my understanding that that was the total

Okay. And you're unfamiliar with the settlements

Just so we have a good record, I'm going to mark

12:53 p.m.

Is this the Letter of Intent -- did I say I

MARKED FOR IDENTIFICATION:

DEPOSITION EXHIBIT 7

schedule 3.8 provides or has Macomb County paying for the entire cost of the sinkhole repair

This just has a number on it which is higher than the total price of the contract amendment, although, as I said, the contract with Inland

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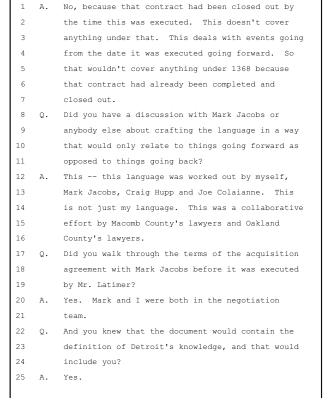
Page 99 don't remember their names. Did you have counsel with you? 3 Yeah, Ed -- well, the interview took place in Ed 4 Keelean's office, and he was there. 5 Did you and Ed Keelean discuss who else had been Ο. interviewed through that point? MR. FAISON: I'm sorry, I didn't hear 8 the guestion. 9 BY MS. BADALAMENTI: 10 Did you and Ed Keelean discuss who else had been 11 interviewed by these same individuals? 12 No. He -- Mr. Keelean sat in on a number of 13 interviews with city employees with the federal investigators, and he did not share their names 14 15 with me. 16 MS. BADALAMENTI: I think I might be done, but if I could just have a couple minutes. 18 MR. FATSON: Sure. 19 (Off the record at 12:56 p.m.) 20 (Back on the record at 12:59 p.m.) 21 BY MS. BADALAMENTI: 22 Do you recall any of the agents that interviewed you to be Carol Paszkiewicz? 23 24 It was Paszkiewicz, yes. She was one. Do you recall Mark Chutkow interviewing you from



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the U.S. Department of Justice?
         I don't remember that name. It might have been
 3
         him. I don't remember. But I do remember
 4
 5
         Looking for a final time at Exhibit 7, the Letter
    Ο.
 6
          of Intent, the Letter of Intent requires that you
         promptly notify -- and I'm referring to paragraph
          9 (e) -- that you promptly notify the transferee,
 8
 9
          Macomb, of any emergency or other change in the
10
          normal course relating to the property. Did you
11
          notify Macomb about any change in the normal
12
          course of 1368?
13
    A. This is long after 1368. This is after the work
          on 1368 was done, so this doesn't cover that.
14
15
         So did you notify Macomb that there had been a
16
          change in the normal course as to 1368?
17
                    MR. FAISON: Just a minute. Is the
18
          question whether he did within the period of the
19
          due diligence?
20
                    MS. BADALAMENTI: Sure.
21
    BY MS. BADALAMENTI:
22
    Q. In the period of due diligence, did you notify
23
         Macomb that there had been a change in the way
24
         that Amendment 2 to 1368 was awarded or anything
25
          else about the normal course of --
```

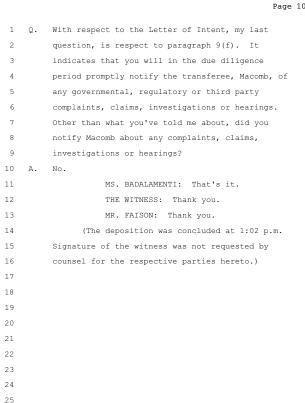


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SIENENSTOCK



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Page 103
                       CERTIFICATE OF NOTARY
     STATE OF MICHIGAN
 3
                          ) SS
 4
     COUNTY OF MACOMB
5
 6
                     I, MELINDA S. MOORE, certify that this
          deposition was taken before me on the date
 8
          hereinbefore set forth; that the foregoing
 9
          questions and answers were recorded by me
10
          stenographically and reduced to computer
11
          transcription; that this is a true, full and
12
          correct transcript of my stenographic notes so
13
          taken; and that I am not related to, nor of
14
          counsel to, either party nor interested in the
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          event of this cause.
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21
                          MELINDA S. MOORE, CSR-2258
23
                          Notary Public.
24
                          Macomb County, Michigan
            My Commission expires: September 6, 2016
```